

# Power Plant Improvement Initiative

## Intellectual Property Issues



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## **Main Issues**

- **Commercialization of Technology**
  - Precise definition of technology envelope
  - Third-party arrangements
- **Data Rights**
  - Participant's proprietary technology
  - Protectable PPII Data
  - Data available to DOE with unlimited rights
- **Patent Rights**



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## Patent Rights

- **Government rights in subject inventions.**
  - A subject invention is one which is conceived or first actually reduced to practice under a DOE award.
  - Statutes defining government rights can be found at 35 U.S.C. §§ 200 to 202.
  - Regulations can be found at 48 CFR 927.3.
- **Status of the awardee, i.e., large business firm, small business firm, non-profit organization, etc., determines its rights.**



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## Patent Rights (cont.)

- **Participant, or subcontractor is a domestic small business firm or non-profit organization**
  - Clause 48 CFR 952.227-11 applies
    - Participant will have the first option to elect to retain title to any subject invention.
    - However, the government retains certain rights such as march-in rights, U.S. preference, and government-use license.



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## Patent Rights (cont.)

- **Participant, or subcontractor does not qualify as a domestic small business firm or non-profit organization**
  - Clause 48 CFR 952.227-13 applies
    - Government takes title to any subject invention.
    - Participant has a revocable, nonexclusive, royalty free license.
    - Participant can petition DOE for a waiver of patent rights. The government retains some rights including march-in rights, U.S. competitiveness, and government-use license. DOE waiver regulations are found at 10 CFR 784.

